IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.272 OF 2006

Anant Gangaram Porlekar .. Appellant.
Vs.
Malutai R.Thombare .. Respondent.

Mr.Amit Borkar for the appellant.
Mr.N.J.Patil for the respondent.

CORAM : D.B.BHOSALE, JJ.
DATED : 13TH JULY, 2007.

P.C.:

. Heard learned counsel for the parties.

2. This second appeal is directed against concurrent findings of the facts recorded by the courts below dismissing a suit filed by the appellant-plaintiff for mandatory injunction seeking directions to the respondent-defendant to remove the structure erected by him in a passage exclusively owned by him. Both the courts below after having considered the entire evidence on record have recorded a categoric finding that the appellant-plaintiff has failed to prove exclusive ownership over the suit property, namely, the passage in which the respondent-defendant has allegedly constructed a bathroom. The courts below have also recorded a finding that the appellant has failed to

prove any obstruction being caused by the defendant-respondent to the enjoyment of the suit property by the appellant. Perused both the judgments. Considering the findings of fact recorded by the courts below, I find sufficient material on record to sustain those findings and considering that no substantial question of law is either raised or involved in the instant appeal, it deserves to be dismissed and is dismissed as such.

3. At this stage Mr.Borkar, learned counsel for the appellant submits that the appellant may be given liberty to file a suit for partition in view of the finding that the appellant and defendants are co-sharers. Mr.Patil, learned counsel for the respondents has no objection for granting liberty to the appellant to adopt appropriate proceedings, if any, available in law. Having considered the submissions of the learned counsel for the parties I pass the following order:

. It is open for the appellant to adopt appropriate remedy, if any, available in law.

(D.B.BHOSALE, J.)